



## Minutes City Council Issue Review Session October 4, 2007

Minutes of the Tempe City Council Issue Review Session held on Thursday, October 4, 2007, 6:00 p.m., in the City Council Chambers, Tempe City Hall, 31 E. Fifth Street, Tempe, Arizona.

### COUNCIL PRESENT:

Mayor Hugh Hallman

Vice Mayor Hut Hutson

Councilmember P. Ben Arredondo

Councilmember Barbara J. Carter

Councilmember Shana Ellis

Councilmember Mark W. Mitchell

Councilmember Onnie Shekerjian

*Mayor Hallman called the meeting to order at 6:10 p.m.*

### Call to the Audience

**Bill Butler, Tempe, re: Item #6.** Mr. Butler urged Council to establish a criteria for quality workmanship by installers of cable and wires attached to housing units in Tempe. He further suggested requiring underground service. He has no experience with Qwest, but rather the shoddy work done by many installers in Tempe. Dispatchers and order takers generate work orders without authority of the property managers or owners on the whim of a tenant. Wires are hung with no regard for existing wires and they simply hang more. Once installed, companies refuse to take them down. He has had many problems with companies refusing to honor his ownership authority and has been met with a "we don't care" attitude. We have to start respecting the visual environment of Tempe.

### Cost Saving Election Methods for City and Candidates

INFORMATIONAL BACKGROUND available in City Clerk's Office.

DISCUSSION – Presenter: City Attorney Andrew Ching

Andrew Ching summarized that at the May 31, 2007, Issue Review Session, he was asked to return with a presentation discussing the possible means of reducing the cost of elections for candidates and the City. Most of the cost to the City is incurred as a result of legal obligations in running elections. Some municipalities have gone to "mail-in" ballots, but without a charter amendment, that would not be possible. With respect to

candidates, the City of Tucson has a comprehensive regulation of campaign contribution and expenditure limitations, as well as a public matching funds eligibility program. This has actually been in existence by charter amendment in Tucson since March of 1986, and is something similar to the Clean Elections Laws that were passed at the statewide level. If this idea were to be seriously pursued, it would require an amendment to the City Charter.

Councilmember Arredondo added that there was a lot of discussion when the location was leaving ASU that there was no early voting location downtown. The feeling was a downtown location would be at minimum cost.

Mayor Hallman asked the City Clerk's Office to perform an analysis and provide the results at the next Issue Review Session. The only thing that has changed is that anyone who is on the permanent vote-by-mail list will be sent a post card by our Clerk's Office under the new statute, and if the recipient does not respond to be removed from the list, they will automatically receive a vote-by-mail ballot from the City of Tempe. That will have the benefit of making it easier for some people to vote who might not have otherwise planned to vote. The downside of that for candidates is that it will now expand the pool of people to whom they will need to direct their attention. It might reduce the cost of election for the City of Tempe, but it might increase the cost for candidates. There might also be a pool of voters who would have easier access to a downtown early voting location.

Councilmember Arredondo added that ASU students might also benefit from that.

#### **CONSENSUS**

**Staff was directed to look into a downtown early voting location.**

**Follow-up Responsibility: Jan Hort**

### **Housing In-Lieu Fee and Density Bonus Program**

INFORMATIONAL BACKGROUND available in City Clerk's Office.

DISCUSSION – Community Development Manager Chris Salomone; Affordable Housing Supervisor Craig Hittie

Chris Salomone summarized that among the array of tools being explored in affordable housing strategy are the in-lieu fee option and a density bonus option to be used along the transit corridor. Staff has hired a consultant to perform an analysis. Although not ready to be presented to Council, this will be discussed at the Affordable Housing Forum on October 20<sup>th</sup>, 9 a.m., at the Tempe Public Library at Rural and Southern.

#### **CONSENSUS**

**Staff was directed to report back after discussions held at the City's Affordable Housing Forum to be held on October 20<sup>th</sup> at the Tempe Public Library.**

**Follow-up Responsibility: Chris Salomone**

### **Firefighter Breathing Air Systems for High Rise Buildings**

INFORMATIONAL BACKGROUND available in City Clerk's Office.

DISCUSSION – Presenter: Fire Chief Cliff Jones

Councilmember Arredondo summarized that this comes from his committee and involves providing oxygen to firefighters in high rise buildings.

Fire Chief Cliff Jones added that although some builders are already installing this system, the concern is that this system be placed in all future high rise buildings. A code amendment has already been placed on the Formal meeting agenda for tonight.

Mayor Hallman summarized that the goal for this discussion was that it would be an opportunity to present it to the community. Our buildings are already on the cutting edge and the developers are already required to do these things. It has not been in the Code but has been a matter of negotiation, and at this stage we are seeking to codify that to create an appropriate safeguard for our firefighters. It is currently in the city codes of Phoenix, Glendale, Avondale, Mesa and Chandler.

Chief Jones added that this issue was reviewed with the Council's Neighborhood Quality of Life, Public Safety and Parks & Recreation Committee. There are three principal logistic issues in fighting a fire in a high-rise building. The first issue is getting firefighters up to the fire, the second issue is getting water up to the fire, and the third issue is keeping firefighters supplied with breathing air. He showed a diagram of the system. The technology is now available to supply breathing air in the same way as water has been supplied.

Mayor Hallman added that some of the City's buildings also have fixed equipment stations, and that has already been incorporated into the Code.

Chief Jones summarized that sometimes breathing apparatus bottles, fire hose, nozzles, etc., are maintained by the developer or owner of the building in conjunction with the inspection by our fire inspectors.

Councilmember Carter asked if our firefighters have been trained in high rises.

Chief Jones responded that they have been trained. The City has had high-rise firefighting procedures for many years and the Fire Department is getting ready to review all of those procedures and update them. Additional training material will be developed about new systems in high rise buildings and this particular system will be included.

Mayor Hallman added that as well as Tempe high-rise buildings, Tempe firefighters are also part of a mutual aid system that requires them to fight fires in other cities that also have high-rises.

Councilmember Shekerjian added that the fact the City is already requiring that these units be placed in our developments, even though there is no ordinance, speaks again to the proactive efforts of our Fire Department.

**INFORMATION ONLY – NO CONSENSUS – ITEM ON FORMAL COUNCIL AGENDA**

**Follow-up Responsibility: Cliff Jones**

## Residential Building Improvement Program

INFORMATIONAL BACKGROUND available in City Clerk's Office.

DISCUSSION – Presenter: Development Services Manager Chris Anaradian

Chris Anaradian summarized that staff has outlined this program at the direction of the Council's Finance, Economy and Veterans Affairs Committee. Staff feels this program has great potential and would have a favorable impact on the community.

Mayor Hallman added that these concepts have been discussed over the past few years to create the opportunity for Tempe homeowners to improve their dwelling units. Council has often heard the complaint that the City has given incentives to developers for years but has forgotten about the residents who are already committed to Tempe.

Mr. Anaradian explained that when homeowners come to Development Services, they are often asking for permission to remodel their homes. A large percentage of homes in Tempe are over twenty years of age and there has been an increase in residents with projects. Oftentimes they come with a budget and plans already made and they find there are associated fees in the building department for plan review and inspections. Staff looked at the amount of department revenue over the last two years and these types of projects are a very small percentage of that revenue. Staff is proposing that these fees be rebated to homeowners on completion of their project. This is a way to directly incentivize re-investment into these older homes.

Mayor Hallman noted that in 2005/2006, the revenue totaled approximately \$120K, and in 2006/2007, it would be approximately \$137K. Staff is recommending that if homeowners applied for permits, completed their projects, and did so in a timely basis (staff is recommending a one-year period), then they can apply and receive a rebate of the fees they have paid. He asked Mr. Anaradian for the kind of restrictions he sees being built into this that would prevent, for example, landlords from using the process to add another bedroom or split a bedroom in a house to make it further rentable to large numbers of people? He added that Councilmember Mitchell had raised that question in previous discussions.

Mr. Anaradian responded that he is keenly aware of the concerns of the Rental Housing Task Force and the concerns Councilmember Mitchell raised during this process about the potential of further incentivizing rental housing. An exception, therefore, has been made to the program. Staff would look at the Tax and License Division's list of current rental homes and if a house is on that list and they are asking for a room addition, they would not be eligible for this program.

Mayor Hallman asked if that included anything that would add bedroom space under City code.

Mr. Anaradian responded that would be the case and that can be identified through the plan review process.

Mayor Hallman asked if that would also include, for example, when sometime during the permit process the project goes forward and then the property is sold to someone who ultimately will rent it. How would we capture

that?

Mr. Anaradian responded that staff would be looking at the program for the one year from the time the permit is issued.

Mayor Hallman clarified that the measurement time of determining whether or not it is being added to a rental would be at the end of that one-year period when the rebate is requested. Would there be a possibility of including a "give-back" so that if the property is turned into a rental anytime within one year after that rebate is made, the City would assess a fee equal to the amount that was rebated.

Mr. Anaradian agreed to consider that and incorporate that into the code language.

Mayor Hallman added that would be a way to avoid anyone playing games in the short term. That would have to be done through the new statute that was passed by our Legislature. He advised working with the City Attorney.

Councilmember Carter asked the City Attorney whether Councilmembers would be entitled to the rebate or whether that would be a conflict.

Mayor Hallman clarified that Councilmembers would not be voting on whether or not they are getting the rebate, they are voting on whether or not we do this, and then once that is done, Councilmembers would qualify for the rebate.

Mr. Ching added that there is a provision in the Conflict of Interest Statute regarding an exemption as a remote interest and that the interest of similarly situated people in a class of ten or more is by definition remote. If this program were to extend to greater than ten persons in the community, then by definition, it would most likely be a remote interest.

Councilmember Mitchell thanked staff and Council because this shows a continuing commitment to our neighborhoods and improving the quality of life for our residents.

Vice Mayor Hutson added that this issue was worked on by his committee for a year and he and Councilmember Mitchell strongly support it.

Mayor Hallman added that Council has talked in the past about the idea for a homeowner who undertakes these kinds of renovations and purchases their materials from Tempe suppliers, at some point the City would rebate the sales tax they paid to the City for those materials.

Mr. Ching recommended referring that issue to the committee.

Mayor Hallman asked the City Manager to agendaize it for referral to the Finance, Economy & Veterans Affairs committee.

## CONSENSUS

**Incorporate a payback if property is turned to rental within one year of receiving a rebate.**

**Move forward with drafting an ordinance phase.**

**Follow-up Responsibility: Chris Anaradian**

## Qwest Cable Licensing Presentation

INFORMATIONAL BACKGROUND available in the City Clerk's Office.

DISCUSSION - Pat Quinn, President of Qwest in Arizona

Andrew Ching introduced Pat Quinn, President of Qwest in Arizona. Jenae Naumann and Mary Wade from the City Attorney's Office have been working diligently to complete this license agreement. Prior to it being placed on the next Council agenda for consideration, Mr. Quinn asked for an opportunity to speak to Council.

Pat Quinn introduced Mary LaFave and Jim Campbell who made a PowerPoint presentation. Their desire is to compete with the incumbent cable operator in an industry that is not otherwise competitive.

- Monopoly cable providers have consistently raised rates. Rates in the cable industry have increased as much as 90% over the last ten year. In other industries such as high speed internet and the telephone industry, which are already competitive, rates have either stayed stagnant or decreased.
- Facilities-based competition benefits consumers, including choice, lower prices, tailored packages, and better customer services.
- Only facilities-based competition brings down monopoly cable rates. Qwest has been operating in Phoenix for 9 years and Cox rates are lower now than any other metropolitan area they serve.

Mayor Hallman asked for clarification that this is for facilities-based cable services.

Mr. Quinn responded that they are seeking a cable franchise to offer cable services.

Mayor Hallman asked if these same points apply to facilities-based provision of phone services.

Mr. Quinn agreed that they do. The incumbent provider does provide phone services. They have a certificate with the State PUC and they compete very hard.

Mary LaFave continued with the presentation:

- Qwest is presently pursuing and have franchises in 22 areas.
- The facilities are in the ground. They offer the service over Qwest's existing facilities, but in order to offer robust service to the home, they must push fiber optics to the neighborhood through existing conduit. Key features of their service:
  - Most cable companies use a broadcast system so they push all their content down their pipes, and the user picks their channel in the home.
  - This system uses a newer technology, called "Switch Digital Video" so that less content is pushed down the pipe and a set-top box which can serve three televisions so that each television set can have a different channel.

- Video-on-demand will be available, as well as HD.

Mr. Quinn continued with the agreement.

- Qwest's Position on Franchises.
- The build-out requirements are a barrier to entry.
  - As a second entrance, it is impossible to come in and have a mandated build requirement in a definite period of time. The agreements Qwest signs now do not contain build and line extension requirements tied to penalties.
  - They are rather proposing a "build incentive." This is a shorter term franchise. It is an initial 6-year deal, and at the end of 3 years, they would sit down with the City to analyze how they are doing. If at that time, if 20% of the City is covered after 3 years, then they get the benefit of adding two additional years at the end of the term. Again, at the end of the 6 years, they would sit down again, and if they have increased that from 20% to 50%, they will add two more years, for a total of a 10-year franchise.
- Will pay the same franchise fees in parity with the incumbent
- Will pay PEG fees in parity with incumbent
- Provide PEG channels in parity with incumbent (including same placement of channels)

Councilmember Ellis asked if the surrounding communities already have two providers, competition has already lowered their rates. Are there different rates charged to different cities and wouldn't her bill be the same?

Mr. Quinn assumed that Cox has already lowered their rates across the board. Rates won't suddenly drop. The benefit of Qwest being elsewhere in the community has probably already been seen.

Ms. LaFave added that the metro area may have already experienced the price benefits, but the other two components are improved customer service and innovation. We need to keep the pressure on so there is always opportunity for improvement in additional benefits through competition.

Mr. Quinn added that they would like to be border-to-border. They would prefer to let the market control how they deploy. On the flip side, as Cox deploys their telephone service, they have had no build-out requirement and no mandate by the PUC, nor does any competitive telephone provider have a mandate to deploy.

Mayor Hallman noted that the presentation noted that Qwest will be in parity with Cox regarding the PEG and franchise fees, as well as the PEG channel content. Does that also include a contribution to the capital costs the City incurs associated with that on a parity basis. The City has an upfront cost associated with that, several million dollars, and has just received \$1.5M from Cox to help offset the cost. The City has had to rebuild its television station. Does Qwest intend to participate in that?

Mr. Quinn responded that could be discussed. If Cox gave \$1.5M, they can probably pass that through in the rate base to their subscribers and they probably get that investment back with a preferred return. Qwest doesn't have any subscribers to collect it from.

Mayor Hallman clarified that Qwest wouldn't see that since Cox fees that they are charging customers include

that, but since Qwest fees are being competitive with that, would Qwest also have that same opportunity?

Mr. Quinn responded that they would as they gain subscribers. Their rates will be lower than their rates.

Mayor Hallman added that the Council recognizes that if Qwest is going to invest in capital to put in some portion of the system, based on the 20%, one would expect as Qwest builds out that Qwest would be contributing toward that capital cost on that same basis.

Mr. Quinn responded that it sounded reasonable and it could be addressed with staff.

Councilmember Carter asked about where the boxes go and what happens to City streets.

Ms. LaFave responded that for the most part, cross boxes in remote terminals already exist in the neighborhoods. They may have to pour an additional concrete pad, but again, the building is done by Qwest Corporation, the incumbent phone company, so they follow whatever rules they have about pulling permits and accessing the right-of-way. If they have to pour a pad in an area outside the public right-of-way, they do so pursuant to a private easement they negotiate with the homeowners. There won't be any tearing up of yards, because they ride over the existing cable from that cross box and then push fiber generally through existing conduit from the central office out to the cross box. The DSLAM is an acronym for electronics that take the fiber path and then create a 20 mb to 40 mb pipe that will handle not only the video service, but the broadband. That's an additional benefit that residents will realize. As fiber is driven out, the speeds available through their broadband high speed internet access is increased.

Councilmember Arredondo stated that the City always wins when there is competition. The bigger issues are service and quality. Price is important, but not without those two.

Ms. LaFave added that if there is interest, the central office that serves the entire Phoenix metro area is located within Tempe's City limits. They would be happy to show Council that operation.

Mayor Hallman added that Qwest's presence in our community, to the extent it can be beautified, is important. For example, the incumbent provider has become part of the community. He assumes that is the kind of partner Qwest wants to be as well. The City would want them to have facilities that would be part of the sustainable pedestrian environment, for example.

Councilmember Carter thanked Qwest for being a corporate sponsor for the Tempe Center for the Arts.

#### **INFORMATION ONLY – NO CONSENSUS**

**Follow-up Responsibility: Andrew Ching**

### **Council Sub-Committee Work Plans**

Mayor Hallman stated that he felt that some Councilmembers had not had the opportunity to discuss the work plans with their committees. He had developed "broad-brush" outlines of the scopes of work, but those are not the committee work plans. He realized that he had moved neighborhood parks from Councilmember

Arredondo's committee to Councilmember Carter's committee. Council had talked about the regional parks which were part of the scope and the goal was to add the additional item.

Councilmember Carter said her concern was the programming of the new Arts Park in conjunction with some of the events.

Mayor Hallman stated that he would fix that, but those scopes of work would still need to be used to create the line item detail. For example, we have the new environmental element of Councilmember Ellis' committee.

Councilmember Ellis stated that her committee did meet last week and talked about the scope. They were hesitant to put together a detailed work plan on the environment issue in case another committee pulled elements of it to their committee. She wanted to make sure that the scope was going to remain the same.

Mayor Hallman clarified that the goal was to create an umbrella place where environmental issues would be discussed.

Councilmember Ellis added that there is a parks element in the environment. She just wanted to make sure the topic was staying and the committee will continue to work on that.

Mayor Hallman added that Council recognized that the work plans overlap because the element might touch on so many things, but at the first summit, it was agreed that that actually enhances the work product. The goal was to have a single committee that has the environmental scopes.

Councilmember Ellis added that they were unclear how to post it because the title of the committees changed. She asked when the titles should be changed.

Mayor Hallman responded that he thought it was established, except for the one issue about the neighborhood parks, and everything else remains.

Councilmember Ellis asked if they should use the new titles.

Mayor Hallman responded that they should use the new titles. For the next Issue Review Session, he asked that the Chairs forward any modifications proposed for the committee to him and he would then create revised work plans and place them on the agenda.

## **CONSENSUS**

**Councilmembers to forward modifications to Mayor to modify and agendize on future IRS.**

**Follow-up Responsibility: Mayor Hallman**

## **Formal Council Agenda Items**

No agenda items were discussed.

## **Future Agenda Items**

Councilmember Ellis stated that she had spent time with the ESGR (Employer Support of the Guard and Reserve) about getting employers' commitments to people that may be called to active duty in the National Guard and Reserves. They had nothing but glowing comments about the responsiveness of City employees who have been asked to serve. They indicated there would be a lot of people returning from active duty that would be looking for employment in the community. At some point, she suggested talking about City policies in relation to the National Guard and Reserves and discuss how to recruit employees.

Mayor Hallman asked that this be put on a future IRS agenda.

## **Mayor's Announcements/Manager's Announcements**

None.

*Meeting adjourned at 7:05 p.m.*

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Jan Hort  
City Clerk